

HOUSE BILL No. 1451

DIGEST OF INTRODUCED BILL

Citations Affected: IC 32-8-3-1.

Synopsis: Waivers of mechanics liens. Provides that a provision in a contract between the owner and the principal contractor that no lien shall attach to the real estate, building, structure, or any other improvement of the owner is void and unenforceable.

Effective: July 1, 1999.

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January 19, 1999, read first time and referred to Committee on Judiciary.

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Introduced

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

HOUSE BILL No. 1451

A BILL FOR AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 32-8-3-1 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) That contractors,
3 subcontractors, mechanics, lessors leasing construction and other
4 equipment and tools, whether or not an operator is also provided by the
5 lessor, journeymen, laborers and all other persons performing labor or
6 furnishing materials or machinery, including the leasing of equipment
7 or tools used, for the erection, altering, repairing or removing any
8 house, mill, manufactory, or other building, bridge, reservoir, systems
9 of waterworks, or other structures, or for construction, altering,
10 repairing, or removing any walk or sidewalk, whether such walk or
11 sidewalk be on the land or bordering thereon, stile, well, drain,
12 drainage ditch, sewer or cistern or any other earth-moving operation
13 may have a lien separately or jointly upon the house, mill, manufactory
14 or other building, bridge, reservoir, system of waterworks or other
15 structure, sidewalk, walk, stile, well, drain, drainage ditch, sewer or
16 cistern or earth which they may have erected, altered, repaired, moved
17 or removed or for which they may have furnished materials or

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1 machinery of any description, and, on the interest of the owner of the
2 lot or parcel of land on which it stands or with which it is connected to
3 the extent of the value of any labor done, material furnished, or either,
4 including any use of such leased equipment and tools, and all claims
5 for wages of mechanics and laborers employed in or about any shop,
6 mill, wareroom, storeroom, manufactory or structure, bridge, reservoir,
7 system of waterworks or other structure, sidewalk, walk, stile, well,
8 drain, drainage ditch or cistern or any other earth-moving operation
9 shall be a lien on all the machinery, tools, stock or material, work
10 finished or unfinished, located in or about such shop, mill, wareroom,
11 storeroom, manufactory or other building, bridge, reservoir, system of
12 waterworks, or other structure, sidewalk, walk, stile, well, drain,
13 drainage ditch, sewer, or cistern or earth or used in the business
14 thereof; and should the person, firm, limited liability company, or
15 corporation be in failing circumstances the above mentioned claims
16 shall be preferred debts whether claim or notice of lien has been filed
17 or not.

18 No provision or stipulation in the contract of the owner and
19 principal contractor that no lien shall attach to the real estate, building,
20 structure or any other improvement of the owner shall be valid against
21 subcontractors, mechanics, journeymen, laborers or persons performing
22 labor upon or furnishing materials or machinery for such property or
23 improvement of the owner; unless the contract containing such
24 provision or stipulation shall be in writing; and shall contain specific
25 reference; by legal description of the real estate to be improved and
26 shall be acknowledged as provided in case of deeds and filed and
27 recorded in the recorder's office of the county in which such real estate;
28 building, structure or other improvement is situated not more than five
29 (5) days after the date of execution of such contract. The contract
30 herein provided for shall be without effect upon labor, material or
31 machinery supplied prior to the time of the filing with the recorder of
32 said contract. The recorder shall record such contract at length in the
33 order of time of its reception in books provided by him for that
34 purpose; and the recorder shall index the same in the name of the
35 contractor and in the name of the owner; in books kept for that purpose;
36 and said recorder shall receive therefor a fee such as is provided for the
37 recording of deeds and mortgages in his office.

38 **(b) A provision in a contract between the owner and the**
39 **principal contractor that no lien shall attach to the real estate,**
40 **building, structure, or any other improvement of the owner is void**
41 **and unenforceable.**

42 (c) Any person, firm, partnership, limited liability company, or



1 corporation who sells or furnishes on credit any material, labor or
2 machinery for the alteration or repair of any owner-occupied single or
3 double family dwelling or the appurtenances or additions thereto, to
4 any contractor, subcontractor, mechanic or anyone other than the
5 occupying owner or his legal representative shall furnish to the
6 occupying owner of said parcel of land where the material, labor or
7 machinery is delivered, a written notice of the delivery or work and of
8 the existence of lien rights, within thirty (30) days from the date of first
9 delivery or labor performed. The furnishing of such notice shall be a
10 condition precedent to the right of acquiring a lien upon such lot or
11 parcel of land or the improvement thereon.

12 (d) Any person, firm, partnership, limited liability company, or
13 corporation who sells or furnishes on credit any material, labor or
14 machinery, for the original construction of a single or double family
15 dwelling for the intended occupancy of the owner upon whose real
16 estate the construction takes place to any contractor, subcontractor,
17 mechanic or anyone other than the owner or his legal representatives
18 shall furnish the owner of the real estate as named in the latest entry in
19 the transfer books described in IC 6-1.1-5-4 of the county auditor, or if
20 IC 6-1.1-5-9 applies, the transfer books of the township assessor with
21 a written notice of the delivery or labor and the existence of lien rights
22 within sixty (60) days from the date of the first delivery or labor
23 performed and shall file a copy of the written notice in the recorder's
24 office of the county within sixty (60) days from the date of the first
25 delivery or labor performed. The furnishing of such notice shall be a
26 condition precedent to the right of acquiring a lien upon such real
27 estate or upon the improvement constructed thereon.

28 (e) No lien for material or labor in original construction shall attach
29 to real estate purchased by an innocent purchaser for value without
30 notice, provided said purchase is of a single or double family dwelling
31 for occupancy by the purchaser, unless notice of intention to hold such
32 lien be recorded as provided in this chapter prior to the recording of the
33 deed by which such purchaser takes title.

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